

TITLE: CIB 97-25 - Eligibility of Hong Kong's Products

October 14, 1997

MEMORANDUM FOR CONTRACTING OFFICERS AND NEGOTIATORS

TO: Distribution List FAC

From: M/OP/OD, Marcus L. Stevenson, Procurement Executive

Subject: Eligibility of Hong Kong's Products

CONTRACT INFORMATION BULLETIN 97 - 25

Two almost concurrent events have revised the eligibility of Hong Kong's products for USAID procurements in opposite directions.

First, FAC 97-01 has revised FAR 25.401 to reflect Hong Kong's accession to the WTO Government Procurement Agreement on June 19, 1997, making Hong Kong's products eligible for the purposes of Section 101 of E.O. 12260 and FAR 25.402. In USAID this designation affects certain procurements funded by Operating Expenses appropriations for the support of USAID offices in the United States and overseas.

Second, the sovereignty over Hong Kong was transferred from the United Kingdom to the People's Republic of China (PRC), effective July 1, 1997. This transfer removed Hong Kong from USAID Geographic Codes 899 and 935, it being subsumed within PRC's listing in the USAID list of foreign policy restricted countries that is specified in 22 CFR 228.03. Thereby, as of the transfer of sovereignty, its products have been rendered ineligible for USAID financing of program assistance for the benefit of third parties--which are subject to the eligibility requirements of ADS Chapter 310, Source, Origin and Nationality, and are not covered by the WTO Government Procurement Agreement.

Under 22 CFR 228.11(b), any component from a foreign policy restricted country makes a product ineligible for USAID program assistance financing. However, components of Hong Kong origin that were produced before the July 1, 1997 sovereignty transfer and are incorporated into products of countries in Geographic Codes 899 and 935 will not render the end products ineligible. Lacking evidence to the contrary, USAID personnel may rely on the representations of offerors as to component eligibility.

Please direct any inquiries concerning the eligibility of Hong Kong's products to M/OP/P.